



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records currently listed under “COMMERCE/PAT-TM-6 Parties Involved in Patent Interference Proceedings.” This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The amendments will become effective as proposed on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the USPTO receives comments that would result in a contrary determination.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: Kurt.Brown@uspto.gov. Include “Privacy Act PAT-TM-6 comment” in the subject line of the message.
- Fax: (571) 273-0053, marked to the attention of Kurt Brown.
- Mail: Kurt Brown, Patent Trial and Appeal Board, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

All comments received will be available for public inspection at the Federal rulemaking portal located at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Kurt Brown, Patent Trial and Appeal Board, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–5356.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information on patent applicants and patentees who become involved in a conflict involving the question of priority of invention. The Privacy Act notice is being updated with the current information for the system location and system manager. The description of the routine uses of records maintained in the system has been revised to clarify which records may be open to public inspection and to include use in law enforcement, audits and oversight activities, and

distribution to contractors, all uses commonly published in other agency system of records notices. The storage and safeguard information has been updated to include electronic records. The description of retrievability has been revised to clarify that records may be indexed by the names of applicants or patentees, but not witnesses. The rule references for the notification procedure, contesting record procedures, and exemptions have been updated to correspond to the current statutes and rules for those items as related to the USPTO.

The amended Privacy Act system of records notice, “COMMERCE/PAT-TM-6 Parties Involved in Patent Interference Proceedings,” is published in its entirety below.

COMMERCE/PAT-TM-6

System name:

Parties Involved in Patent Interference Proceedings.

Security classification:

Unclassified.

System location:

Patent Trial and Appeal Board, United States Patent and Trademark Office,
Madison East, 600 Dulany Street, Alexandria, Virginia 22314.

Categories of individuals covered by the system:

Applicants for patent and patentees who become involved in a conflict involving the question of priority of invention.

Categories of records in the system:

All records relating to the declaration, conduct, and termination of interference proceedings, including, but not limited to: Preliminary statements, motions, testimony, and settlement agreements. The data contained in the records may include information relating to an applicant's, a patentee's or a witness's name, age, citizenship, residence, educational and work background, physical and mental health, activities relating to conception and reduction to practice of the contested subject matter, and other matters which may arise during the conduct of the interference proceeding or in connection with any agreements made by the parties relative to the interference proceeding.

Authority for maintenance of the system:

35 U.S.C. §§ 1, 6, 23, 24, and 135.

Purpose(s):

To carry out the duties of the USPTO under 35 U.S.C. §§ 6 and 135, in particular, to review adverse decisions of patent examiners regarding patent applications; to determine the priority and patentability of inventions in interference proceedings; and to conduct Inter Partes Reviews, Post Grant Reviews, and Proceedings under the

Transitional Program from Covered Business Methods Patents, and Derivation Proceedings.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records relating to interferences which do not involve an unpublished application are open to public inspection. Records relating to interferences which do involve an unpublished application (37 CFR 41.6) are open to public inspection after the interference has terminated, if any application or patent in the interference is or becomes published. Otherwise, information concerning these records is provided outside the Office only upon authorization of the applicants or owners of the applications or patents involved, or when necessary to carry out the provisions of any act of Congress or in such special circumstances as may be determined by the Director. Copies of settlement agreements filed under 35 U.S.C. § 135(c) are kept separate from other interference records if the party filing them so requests, and are made available, as provided in the statute, only to Government agencies on written request or to any person on a showing of good cause.

In addition to the routine uses in the Prefatory Statement of General Routine Uses, as found at 46 FR 63501-63502 (December 31, 1981), routine uses of these records will also include:

(1) Disclosure for law enforcement purposes to the appropriate agency or other authority, whether federal, state, local, foreign, international or tribal, charged with the responsibility of enforcing, investigating, or prosecuting a violation of any law, rule,

regulation, or order in any case in which there is an indication of a violation or potential violation of law (civil, criminal, or regulatory in nature).

(2) Disclosure to an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(3) Disclosure to contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the USPTO, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to the USPTO employees.

Disclosure to consumer reporting agencies:

Not applicable.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders or in electronic form. Electronic records held in confidence are in a password-controlled system.

Retrievability:

Filed by Interference Number, cross-indexed to the names of the parties. The records may be indexed by applicant or patentee name, but not by witness name.

Safeguards:

Records of settlement agreements held in confidence are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. Electronic files are stored in secured premises with access limited to those whose official duties require access. The electronic files are password-protected and can only be accessed by authorized personnel.

Retention and disposal:

Records retention and disposal is in accordance with the series records schedules.

System manager(s) and address:

Chief Administrative Patent Judge, Patent Trial and Appeal Board, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Notification procedure:

Information about the records contained in this system may be obtained by sending a request in writing, signed, to the system manager at the address above or to the address provided in 37 CFR 102 subpart B for making inquiries about records covered by the Privacy Act. Requesters should provide their name, address, and record sought (including Interference Number, if known) in accordance with the procedures for making

inquiries appearing in 37 CFR 102 subpart B.

Record access procedures:

Requests from individuals should be addressed as stated in the notification section above.

Contesting record procedures:

The general provisions for access, contesting contents, and appealing initial determinations by the individual concerned appear in 37 CFR 102 subpart B. Requests from individuals should be addressed as stated in the notification section above.

Record source categories:

Applicants for patent and patentees, the patent attorneys or agents authorized by such persons to represent them, those authorized by the applicant to furnish information, and witnesses and other parties involved in the taking of testimony.

Exemptions claimed for the system:

Pursuant to 5 U.S.C. § 552a(k)(1), Patent Interference Proceedings records which relate to applications subject to a secrecy order pursuant to 35 U.S.C. § 181 or are otherwise subject to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. § 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be

detrimental to national security and in accordance to agency rules, which appear in 37 CFR 102 subpart B.

Dated: March 26, 2013.

Susan K. Fawcett,
Records Officer, USPTO,
Office of the Chief Information Officer.
BILLING CODE: 3510-16-P

[FR Doc. 2013-07340 Filed 03/28/2013 at 8:45 am; Publication Date: 03/29/2013]